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JUL 14 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Toshiyuki SANO
Application No. 09/759,257
Filed: January 16, 2001
For: SOLID STATE IMAGING APPARATUS

DECISION
ON PETITION

This is a response to the petition to withhold abandonment under 37 CFR 1.181, filed May 27, 2005. The petition is being treated under 37 CFR 1.8(b) to withdraw the holding of abandonment.

The petition is granted.

This application became abandoned for failure to timely file a response to the Office action mailed April 21, 2004, which set a shortened statutory period of three (3) months to reply. That period lapsed without reply, rendering this application abandoned as of July 22, 2004. A Notice of Abandonment has not yet been mailed.

Petitioner alleges to have timely filed a response to the Office action on July 21, 2004. To support this position, Petitioner has included with the instant petition a copy of the response and a copy of an Auto-Reply Facsimile Transmission indicating that a 14 page document from Petitioner was received in the U.S. Patent and Trademark Office on July 21, 2004.

37 C.F.R. § 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence,
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate, and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Petitioner has met the requirements above. Accordingly, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

A review of the file record indicates that the response filed with the instant petition has been entered. Therefore, the file is being forwarded to the examiner for consideration in due course.

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